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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/038,786	01/03/2002	Carolyn M. Primus	TUL-LOMA	4082

23439 7590 12/12/2003

DENTSPLY INTERNATIONAL INC
570 WEST COLLEGE AVENUE
YORK, PA 17404

EXAMINER

GREEN, ANTHONY J

ART UNIT PAPER NUMBER

1755

DATE MAILED: 12/12/2003

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Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/038,786

Applicant(s)

PRIMUS, CAROLYN M.

Examiner

Anthony J. Green

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 27 October 2003.
- 2a) ☒ This action is FINAL. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-3 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-3 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. §§ 119 and 120

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ 6) ☐ Other: _____

DETAILED ACTION

Response to Amendment

1. This office action is in response to the amendment submitted on 27 October 2003. It should be noted that applicant's have not fully responded to the 102 rejections (at least from what the examiner can gleam from the response) as no specific arguments have been provided specifically traversing the 102 rejections. Applicant only appears to argue the 103 rejections of claims 1-2 and accordingly the examiner is interpreting these arguments to also apply for the 102 rejections. Also no specific arguments can be seen concerning the rejection of instant claim 3.

Claim Rejections - 35 USC § 102/103

2. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.
3. Claims 1-2 are rejected under 35 U.S.C. 102(b) as being anticipated by Nelson et al (US Patent No. 2,358,730) for the reasons set forth in the previous office action and which are herein incorporated by reference.

Applicant argues that the instant claims are not met by the reference as the reference does not teach a dental material that is white in color and in no way teaches or suggests to adjust the amount of iron oxide in a Portland cement component.

It is the position of the examiner that the instant claims are met by the reference. The reference clearly teaches the use of white components and accordingly there is nothing to suggest that the resulting dental material is not white in color. Applicant's

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have not provided any evidence that the dental material of the reference does not possess a white color. As for the amount of iron oxide present, applicant recites an amount of less than 0.5 percent which includes an amount of 0 percent. Since the presence of iron oxide is not positively recited in the reference then one would not expect it to be present in the composition and accordingly the limitation of "less than 0.5 percent" is met by the reference.

4. Claim 1 is rejected under 35 U.S.C. 102(b) as being anticipated by Derwent Abstract NO. 1995-034557 which is an abstract of Russian Patent Specification No. 2012327C1 for the reasons set forth in the previous office action and which are herein incorporated by reference.

Applicant argues that the instant claims are not met by the reference as the reference does not teach or suggest to adjust the amount of iron oxide in a Portland cement component.

It is the position of the examiner that the instant claims are met by the reference. As for the amount of iron oxide present, applicant recites an amount of less than 0.5 percent which includes an amount of 0 percent. Since the presence of iron oxide is not positively recited in the reference then one would not expect it to be present in the composition and accordingly the limitation of "less than 0.5 percent" is met by the reference.

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5. Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over for the reasons set forth in the previous office action and which are herein incorporated by reference.

Applicant has not provided any specific arguments as to why it would not have been obvious to substitute one Portland cement composition for another and accordingly the rejection has been repeated.

6. Claims 2-3 are rejected under 35 U.S.C. 103(a) as being unpatentable over Russian Patent Specification No. 2012327C1 for the reasons set forth in the previous office action and which are herein incorporated by reference.

With respect to claim 2 , applicant argues that the reference in no way teaches or suggests to adjust the amount of iron oxide in a Portland cement composition. It is the position of the examiner that applicant has not shown that it would not have been obvious to formulate compositions that art white so that they match the color of natural teeth. As for claim 3, applicant has not provided any specific arguments as to why it would not have been obvious to substitute one Portland cement composition for another and accordingly the rejection has been repeated.

Conclusion

7. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

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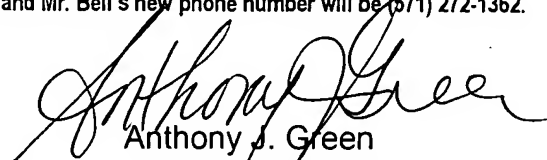
A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Anthony J. Green whose telephone number is 703-308-3819. The examiner can normally be reached on Monday-Thursday 6:30-4:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mark L. Bell can be reached on 703-308-3823. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9310.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0661.

After the move to the new USPTO Headquarters located in Alexandria, VA, tentatively scheduled for the week of December 22, 2003, the examiner's new phone number will be (571) 272-1367 and Mr. Bell's new phone number will be (571) 272-1362.


Anthony J. Green
Primary Examiner
Art Unit 1755

ajg
December 09, 2003